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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,733

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EXAMINER

SACKEY, EBENEZER O

ART UNIT

PAPER NUMBER

1624

MAIL DATE

DELIVERY MODE

05/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,733	Applicant(s) CAERS ET AL.	
	Examiner EBENEZER SACKEY	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/09/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

Claims 1-44 are pending.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Information Disclosure Statement

Receipt of the Information Disclosure Statement filed on 04/09/07 is acknowledged and has been entered into the file. A signed copy of the 1449 is attached herewith.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite a reaction between propylene and carbon dioxide and hydrogen over rhodium complex catalyst with specific stipulated ratios. However, there is no clear indication as to what is obtained after completion of the reaction, thus, rendering the process ambiguous and unclear.

Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takai et al., (U.S. Patent Number 6,583,324).

Applicants claim a continuous process for the hydroformylation of propylene, wherein propylene stream is fed into a hydroformylation reactor with carbon monoxide and hydrogen over a rhodium containing catalyst as noted in (i)-(ii) and (a) to (c) with the stipulated ratios.

Determination of the scope and content of the prior art (MPEP §2141.01)

Takai et al., teaches the production of aldehyde by reacting an olefinic compound (propylene) with carbon monoxide and hydrogen in the presence of a rhodium complex catalyst comprising rhodium and an organic phosphite in a reaction zone. See the entire disclosure especially the abstract, column 1, lines 6-22, column 61 lines 42-55, column 62 lines 27-41 where Takai teaches that the process can be a batch or continuous process.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The difference between the instant process and Takai et al., resides in the ratios of reactants required currently. Takai et al., discloses various ratios of reactants, without listing the specific ratios required of claims 1-7 and 15-19, whereas the current process lists the percentages required. However, in view of similar (starting material) and process conditions, there is a reasonable expectation that the resulting product(s) would be the same since applicant's specification and Takai et al., disclose similar process parameters. Note column 9 lines 60-63 and column 11 line 8 respectively where Takai teaches that the presence of sulfur (sulphur) and chlorine will not inhibit

hydroformylation. Also note Example 4 in column 73 and Table 3 for the various rhodium complexes applicable to hydroformylation.

Additionally, process parameters such as temperatures and pressure are disclosed in column 62, line 61-67. Note the limitations of claims 42-44 where butyraldehyde is hydrogenated to alcohol (claim 9), also note Table 4 in the specification.

Finding of prima facie obviousness---rational and motivation (MPEP §2142-2143)

Accordingly, at the time of filing this application, one of ordinary skill in the art would thus, have been motivated to prepare an aldehyde from propylene feed with a reasonable expectation that the resulting process would provide high yield and/or selectivity for aldehyde because Takai discloses that the reaction between propylene and carbon and hydrogen over rhodium catalyst complex is known and expected to yield an aldehyde. Hence, the instantly claimed process is an expected process and would therefore have been suggested to one of ordinary skill in the art absent a showing of unexpected results and or properties.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EBENEZER SACKKEY whose telephone number is (571)272-0704. The examiner can normally be reached on 7.30-4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Ebenezer O. Sackey/
Patent Examiner, AU 1624.**

**/James O. Wilson/
Supervisory Patent Examiner, Art Unit 1624**